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THOR CONSTRUCTION, INC.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DONALD AMARELD, JR., Individually,
Plaintiff,

vs.

TROPICANA LAS VEGAS HOTEL AND
RESORT, INC. aka TROPICANA HOTEL
AND CASINO, a Nevada Domestic
Corporation; TROPICANA LAS VEGAS
INC., a Nevada Corporation; ARMENCO
HOLDINGS AND REGAL
ENTERTAINMENT GROUP, LLC a Foreign
Limited Liability Company; DOES 1-20
inclusive; and, ROES 1-20 inclusive,
Defendants.

TROPICANA LAS VEGAS, INC., a Nevada
Corporation,

Third-Party Plaintiff,

vs.

THOR CONSTRUCTION, INC.; TURNEY
DEVELOPMENT, LLC; DOES 1 through 10,
inclusive, and ROE ENTITIES 1 through 10,
inclusive,

Third-Party Defendants.

Case No.: 2:13-cv-00758-APG-NJK

**STIPULATED DISCOVERY PLAN
AND REQUEST TO EXTEND TIME
FOR DISCOVERY**

(SECOND REQUEST)

Pursuant to FRCP 6, FRCP 26, LR 26-1, and LR 26-4, Plaintiff, Donald Amareld, Jr.
("Plaintiff"), Defendant/Third-Party Plaintiff, Tropicana Las Vegas, Inc. ("Tropicana"), Third-
Party Defendant, Thor Construction, Inc. ("Thor"), and Third-Party Defendant, Turney

Development, LLC ("Turney"), by and through their respective counsel of record, hereby stipulate and agree to jointly move this Court for an order to:

1. Extend the discovery cut-off from March 5, 2014 to April 5, 2014;
2. Extend the deadline to disclose initial experts from January 3, 2014 to February 7, 2014;
3. Extend the deadline to disclose rebuttal experts from February 2, 2014 to March 3, 2014;
4. Extend the deadline to file the interim status report from February 2, 2014 to March 3, 2014; and
5. Extend the deadline to file the joint pre-trial order from May 5, 2014 to June 5, 2014.

The parties submit there is good cause for the request. The conference required pursuant to FRCP 26(f) was held July 19, 2013. After Thor made its appearance as a third-party defendant, a supplemental FRCP 26(f) conference was held on August 15, 2013. The supplemental conference was held even though Turney had not appeared because Tropicana was uncertain, after attempts to contact them, whether Turney was going to defend or be defaulted. Shortly after the August 15, 2013 supplemental conference, it was discovered Turney intended to defend against the third-party claims and filed an answer to Tropicana's third-party complaint on August 24, 2013. All the parties have now appeared in this case.

1. GOOD CAUSE EXISTS TO ALLOW AN EXTENSION OF DEADLINES

The parties previously submitted their renewed first request to extend discovery deadlines on September 24, 2013 (No. 34). The Court granted the request in part, indicating good cause had not been shown to warrant the requested 180-day extension (No. 35). For the following reasons, the parties hereby submit their second request to extend time for discovery by thirty (30) days.

Since this Court's previous order extending discovery, the parties have participated diligently and actively in discovery. Tropicana conducted an independent medical exam on Plaintiff, Plaintiff and his wife were deposed, and the parties have propounded , exchanged and responded to various written discovery requests. The parties simply need additional time to

1 designate experts in this matter. Currently, expert disclosures are due January 3, 2014. A thirty
2 (30) day extension is adequate time for the parties to retain experts, and for the experts to prepare
3 reports.

4 **II. DISCOVERY COMPLETED**

- 5 A. Tropicana served written discovery requests on Plaintiff on August 13, 2013, and
6 Plaintiff responded on October 1, 2013;
- 7 B. Tropicana served written discovery requests on Thor on August 13, 2013 and October
8 9, 2013, and Thor responded on September 23, 2013 and November 27, 2013,
9 respectively;
- 10 C. Thor served written discovery requests on Plaintiff on September 23, 2013, and
11 Plaintiff responded on October 28, 2013;
- 12 D. Plaintiff served written discovery on Tropicana on September 23, 2013, and
13 Tropicana responded on November 13, 2013;
- 14 E. Thor served written discovery on Tropicana on October 9, 2013, and Tropicana
15 responded on November 26, 2013;
- 16 F. Tropicana served written discovery on Turney on October 9, 2013, and Turney
17 responded on December 3, 2013;
- 18 G. Tropicana performed an Independent Medical Examination of Plaintiff on November
19 11, 2013;
- 20 H. Plaintiff was deposed on November 12, 2013; and
- 21 I. Plaintiff's wife, Diana Durso, was deposed on November 13, 2013.

22 **III. DISCOVERY PLAN (DISCOVERY WHICH REMAINS TO BE COMPLETED)**

23 The parties wish to conduct discovery on the following remaining issue: the cause of
24 Plaintiff's slip and fall, including but not limited to investigation of all liability issues involving
25 the pool deck at issue including any liability on the part of Thor and Turney and any comparative
26 liability on Plaintiff. Tropicana, Thor, and Turney also wish to conduct further discovery on the
27 contractual obligations between them and issues relating thereto. The parties contemplate
28 specific discovery as follows:

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1. Additional written discovery requests by the parties;
2. A site inspection by experts for the parties of the pool deck at issue;
3. Retention and designation of liability and damages experts by the parties;
4. Depositions of at least one person most knowledgeable for Tropicana, Thor and Turney;
5. Depositions of one or more of Plaintiff's medical providers;
6. Depositions of designated experts; and
7. Other discovery not anticipated the parties may need based upon information obtained during discovery.

IV. GROUNDS FOR DISCOVERY EXTENSION

While discovery currently does not end until March 5, 2013, the parties realize they are unable to comply with upcoming discovery deadlines and need to have discovery extended. Specifically, the current expert disclosure deadline is January 3, 2014, less than a month from now. The parties need additional time to retain liability experts, perform a site inspection, and provide expert reports.

Additionally, while Plaintiff has already provided some medical records with his initial disclosures, additional records regarding his preexisting medical condition relating to the knee he injured in the subject incident also need to be obtained. These records need to be obtained from providers on the east coast and may take additional time to receive.

V. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY

1. Extend the discovery cut-off from March 5, 2014 to April 5, 2014;
2. Extend the deadline to disclose initial experts from January 3, 2014 to February 7, 2014;
3. Extend the deadline to disclose rebuttal experts from February 2, 2014 to March 3, 2014;
4. Extend the deadline to file the interim status report from February 2, 2014 to March 3, 2014; and
5. Extend the deadline to file the joint pre-trial order from May 5, 2014 to June 5, 2014.

This stipulation is submitted in good faith and pursuant to LR 26-1 and LR 26-4. This is the second request for an extension by the parties.

Dated this 13th day of December, 2013.

Dated this 13th day of December, 2013.

/s/ Kristopher T. Zeppenfeld, Esq.

/s/ Melanie Thomas, Esq.

Martin J. Kravitz, Esq.

Arthur Tuverson, Esq.

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Attorneys for Plaintiff,

Thor Construction, Inc.

Donald Amareld, Jr.

Dated this 13th day of December, 2013.

Dated this 13th day of December, 2013.

/s/ Gregory M. Schulman, Esq.

/s/ Gary W. Call, Esq.

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Turney Development, Inc.

ORDER

IT IS SO ORDERED.

DATED : December 13, 2013


UNITED STATES MAGISTRATE JUDGE